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10/528,574	03/21/2005	Toyohide Nagare	122620	8464
25944	7590	07/24/2007	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			BLOODGOOD, RUSSELL F	
		ART UNIT	PAPER NUMBER	
		3634		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/528,574	NAGARE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Russell F. Bloodgood	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 April 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>3/21/2005</u> .	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species I (figures 1-9, claims 1-20) in the reply filed on 4/17/2007 is acknowledged. The traversal is on the ground(s) that the separate species set forth by the Examiner do not lack a single inventive concept. This is not found persuasive because after a prior art search, the single inventive concept was found to lack novelty, and therefore the species lack unity.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on 3/21/2005 was filed in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

4. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not

clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: pitch, timing, opposing part to the rail groove, opposing position to the rail groove; opposing gap, opposing site to the rail groove, opposing base position.

5. The disclosure is objected to because of the following informalities:
  - a. The language "rail grooves 9" should be corrected so as to read --rail grooves 9a-- (page 7, paragraph 0052, line 6).
  - b. The language "displaced in the front-and-rear directions by press force" is unclear and requires correction (page 12, paragraph 0069, lines 11-12).
  - c. The language "the posture holding lever 14" is incorrect, the reference number 14 was previously used to label a "posture holding bar" (page 13, paragraph 0071, line 3).

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the language "pitch" in line 3, which renders the claim indefinite because the term is normally used to describe angular displacement.

Claim 1 recites the language "the rail grooves designed so that" in line 5, which renders the claim indefinite. The Examiner suggest including the word --are-- between "grooves" and "designed".

Claim 1 recites the language "an posture holding bar" in lines 6-7, which renders the claim indefinite.

Claim 1 recites the limitation "the lower end portion" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the curtain width direction" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the upper side" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the language "for guiding the posture holding bar to an opposing position to each of the rail grooves and a second guide body for guiding the fitting piece at the lower end portion of the shutter curtain toward each of the rail grooves in conformity with a timing at which the posture holding bar is guided to the opposing position to the rail groove" in lines 9-13, which render the claim indefinite because it is unclear to the Examiner what is being claimed, most notably the opposing position and the conformity with a timing.

Claim 1 recites the limitation "the lower end portion" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the upper side" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the vertical direction" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the language "pitch" in line 2, which renders the claim indefinite because the term is normally used to describe angular displacement.

Claim 3 recites the limitation "the upper end portion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the curtain face" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the language "guiding the posture holding bar to the opposing position to the rail groove, and the guideways which are inclined-shaped and guide the posture holding bar to the guide face are formed on the guide face" in lines 2-5, which renders the claim indefinite because the language is unclear what the opposing position is and how the guideways differ from the guide faces.

Claim 5 recites the limitation "the upper and lower sides" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the freely deformable piece" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the language "formed so as to be located in an opposing gap between the guideways" in lines 2-3, which renders the claim indefinite because it is unclear what the opposing gap is and where it is located.

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Claim 6 recites the limitation "the guideways" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the lower side" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the position" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the right-and-left direction" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the inside" in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the outer surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the upper end portion" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the curtain face" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the language "guiding the posture holding bar to the opposing position to the rail groove" in lines 2-3, which renders the claim indefinite because it is unclear what the opposing position is.

Claim 13 recites the limitation "the upper and lower sides" in line 4. There is insufficient antecedent basis for this limitation in the claim.

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Claim 14 recites the language "guiding the posture holding bar to the opposing position to the rail groove" in lines 2-3, which renders the claim indefinite because it is unclear what the opposing position is.

Claim 14 recites the limitation "the upper and lower sides" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the language "the third guide body is formed so as to be located in an opposing gap between the guideways" in lines 2-3, which render the claim indefinite because it is unclear what the opposing gap is.

Claim 15 recites the limitation "the guideways" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the lower side" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the inside" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the outer surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "the inside" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "the outer surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the inside" in lines 3 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the outer surface" in lines 7 and 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. As best understood, claims 1, 3-9, and 14-17 rejected under 35 U.S.C. 102(e) as being anticipated by Varley et al. (US Patent No. 6722416).

Varley et al. disclose a sheet shutter device in which fitting pieces 66f, 68f, 66a, and 68a are provided at both side portions of a sheet-shaped shutter curtain 22 so as to be spaced from one another at predetermined intervals in a vertical direction and made to slide through the rail grooves 54f and 56f of guide rails 54 and 56 provided at both side portions of an opening portion; by opening/closing the opening portion, the rail grooves 54f and 56f are designed so that the fitting pieces 66f, 68f, 66a, and 68a come out of the rail grooves 54f and 56f under an excessive load imposed on the shutter curtain 22, wherein a posture holding bar 58 is provided to at least the lower end portion of the shutter curtain 22 so as to be spaced from the fitting pieces 66f, 68f, 66a, and 68a in the curtain width direction (Fig. 7), and at the upper side of each of the rail grooves

54f and 56f are provided a first guide body 30c and a second guide body 54h for guiding the posture holding bar 58 and the fitting piece 66f, 68f, 66a, and 68a at the lower end portion of the shutter curtain back into alignment, respectively.

Varley et al. further disclose a third guide body 114c, 116c, and 56h (Fig. 17) for guiding the fitting pieces 66f, 68f, 66a, and 68a toward the rail grooves 54f and 56f, said third guide body 114c, 116c, and 56h having freely deformable members 114c and 116c located in the gap between the first guide body 30c and the rail groove 54f or 56f that can deform in either direction; the first guide body (114b and 116b in Fig. 17) has a pair of inclined guide faces for guiding the posture holding bar 58 to a realigned position; first and second guide bodies formed together as a single integral unit (Figure 17); and finally a guide face 114a and 116a for guiding edge portions of the shutter 22 formed within the second guide body.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. As best understood, claims 2 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varley et al. in view of Coenraets (US Patent No. 4884617).

Varley et al. fail to disclose having an interval between fitting pieces that is shorter than the length of the second guide body.

Coenraets '617 teaches a flexible curtain 1 having a plurality of fitting pieces 6 that are in very close proximity of one another, their intervals being shorter than the length of the guide 24.

It would have been obvious to one of ordinary skill within the art at the time of the invention to modify the sheet shutter device disclosed by Varley et al. with fitting pieces having very small intervals between them, shorter than the length of the second guide body as taught by Coenraets '617, so that there would be more than one fitting piece in the second guide body at a time to create a stronger connection between the shutter and the guide rail and to ensure that the shutter is properly realigned.

9. As best understood, claims 10 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varley et al. and Coenraets '617 in view of Coenraets (US Patent No. 5526865).

Varley et al. fail to disclose freely displaceable rail body and means for urging this displacement, said urging means including an elongated elastic member disposed along the outer surface of the support rail, an elongated receiving plate member applied to the outer surface of the elastic member and a joint member provided between the rail body and the receiving plate member, so as not to come off, and an elastic deforming force of the elastic member acts on the rail body via the receiving plate member.

Coenraets '865 teaches a shutter device having a freely displaceable rail body 20 and 21 and means for urging this displacement, said urging means including an elongated elastic member 5 disposed along the outer surface of the support rail 4, an elongated receiving plate member 11 applied to the outer surface of the elastic member

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5 and a joint member 15 provided between the rail body and the receiving plate member, so as not to come off, and an elastic deforming force of the elastic member 5 acts on the rail body 20 and 21 via the receiving plate member 11.

It would have been obvious to one of ordinary skill within the art at the time of the invention to modify the sheet shutter device disclosed by Varley et al., modified as previously set forth above, with freely displaceable rail bodies and urging means for allowing the rail bodies to be displaced in order to create a shutter that has greater ability to withstand large forces applied to the shutter in a plane generally perpendicular to said shutter. It also allows the shutter to leave the guide rails with minimal damage if its limits for maintaining the connection are breached.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. US 5219015 to Kraeutler discloses a lifting curtain door with fitting pieces, guide rails, and guide bodies that realign fitting pieces that have been pulled from the guide track.
- b. US 5829504 to Ekstrand et al. discloses a door edge guide having an urging means comprising a spring, receiving plates, and an edge guide.
- c. US 6273175 to Kellogg et al. discloses an overhead door and track that utilizes an urging means to absorb forces applied to the door.

d. US 6698490 to Hoerner et al. discloses a release mechanism for an industrial door that utilizes an urging means to allow the doors connective rollers to be released from the guide rail.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell F. Bloodgood whose telephone number is 571-272-5712. The examiner can normally be reached on Mon - Fri: 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RFB



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SUPERVISORY PATENT EXAMINER